UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,262	10/10/2000	John T. Wassom JR.	06975-029004	3601

26171   7590   03/12/2009
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
TRAN, MYLINH T

ART UNIT	PAPER NUMBER
2179	

NOTIFICATION DATE	DELIVERY MODE
03/12/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

1   RECORD OF ORAL HEARING

2   UNITED STATES PATENT AND TRADEMARK OFFICE

3   _____

4   BEFORE THE BOARD OF PATENT APPEALS

5   AND INTERFERENCES

6   _____

7   *EX PARTE* JOHN T. WASSOM, JR., and JERRY L. HARRIS
8   _____

9   Appeal 2008-4761
10   Application 09/582,262
11   Technology Center 2100
12   _____

13   Oral Hearing Held: February 12, 2009

14   _____

15 Before ALLEN R. MacDONALD, ST. JOHN COURTENAY, III, and

16 STEPHEN C. SIU, *Administrative Patent Judges.*

17

18

19 APPEARANCES:

20 ON BEHALF OF THE APPELLANTS:

21   Meghan A. McGovern, Esquire
22   Kevin Greene, Esquire
23   FISH & RICHARDSON, P.C.
24   P.O. Box 1022
25   Minneapolis, MN 55440-1022
26
27
28
29

1   The above-entitled matter came on for oral hearing on Thursday,

2   February 12, 2009, at The U.S. Patent and Trademark Office, 600 Dulany

3   Street, Alexandria, Virginia, before Victor Lindsay, Notary Public.

4

5   MS. BEAN: Calendar No. 50, Mrs. McGovern.

6   JUDGE MacDONALD: Thank you.

7   MS. BEAN: You're welcome.

8   JUDGE MacDONALD: Have you been here before?

9   MS. McGOVERN: No, sir.

10   JUDGE MacDONALD: Okay. You have 20 minutes. You can begin

11   anytime and -- we're ready.

12   MS. McGOVERN: Good morning, Your Honors. My name is

13   Meghan McGovern. I represent the appellant in this matter.

14   The rejections made under Section 102 should be reversed because the

15   cited reference, Bodner, does not describe all of the elements of the claims.

16   For example, Bodner does not describe an ordered list of the resources

17   representative of an order in which the resources were accessed using a

18   single navigation interface as recited in the independent claims.

19   The Office has pointed to Figure 7 of Bodner as showing such an

20   ordered list, however, turning to Figure 7 of the Bodner reference, we see

21   that it presents what Bodner refers to as the What's New Interface, which

22   shows a list of quick mark items. However, this list is not in any particular

23   order and it's not an ordered list. The list includes a name of a quick mark, a

24   time and date of when the quick mark was updated, and the type of quick

25   mark. However, as we see in Figure 7 of Bodner, the list is not in order. For

1   example, by name, the quick mark names are not alphabetized. It's not in

2   order by when the quick mark was updated. If you look at the first three

3   quick marks, we see update time and dates at three different points in 1996,

4   August and October, then August again. And finally, it's not disclosed in

5   this reference that it's ordered by type. All of these quick marks shown in

6   Figure 7 are of the same type as this list does not show an ordered list.

7   Moreover, our -- yes?

8   JUDGE COURTENAY: So by order, you mean time order, in your

9   claim, essentially? You recite an order in which the resources were

10 accessed. So you're really claiming a time sequence, a time order, is that

11 correct?

12   MS. McGOVERN: Yes, that would be fair.

13   JUDGE COURTENAY: Thank you.

14   MS. McGOVERN: Anybody else?

15   (No response)

16   MS. McGOVERN: Okay. Moreover, even if Bodner could somehow

17 be read to show an ordered list, our claim is more specific than just an

18 ordered list. We recite an ordered list of resources representative of an order

19 in which those resources were accessed using a single navigation interface.

20 Even if Bodner could somehow be shown to be an ordered list, it doesn't

21 show -- and these quick marks could be considered to be resources, they're

22 not shown in an order in which they were accessed, rather What's New

23 Interface presents when these quick marks were updated.

24   Does anybody have questions?

25   JUDGE MacDONALD: No.

1   MS. McGOVERN: No further questions?

2   JUDGE MacDONALD: Actually, yes.

3   MS. McGOVERN: Okay.

4   JUDGE MacDONALD: I hate to put you on the spot, but -- the claim

5 here again. Claim 1.

6   MS. McGOVERN: Yes.

7   JUDGE MacDONALD: I know it's a difficult question and you

8 haven't really prepared for it, but how is this claim statutory under Bilski?

9 Which prong are you using for this particular method?

10   MS. McGOVERN: Right. Thank you for your question. Bilski was

11 intervening case law, as you know, and these claims, we would be willing to

12 amend these claims in view of Bilski. The way we're thinking is probably

13 under the tied-to-a-machine way of Bilski, because this is all done on a

14 client machine, one of the --

15   JUDGE MacDONALD: Well, I'm also -- sorry to interject. Let me

16 interject. I'm also -- it appears you're creating particular data structures in

17 your machine. So is there a transformation possibility there?

18   MS. McGOVERN: There is a transformation possibility, and we

19 would be willing to consider that, as well.

20   JUDGE MacDONALD: Okay. That's it for my questions.

21   JUDGE COURTENAY: Okay, going back to Figure 7 --

22   MS. McGOVERN: Okay.

23   JUDGE COURTENAY: -- we have times that these entities, these

24 names, are updated. Don't you access something when you update

25 something?

1   MS. McGOVERN: I think that's a good question. However, what

2   this reference discloses is that by updating, what they mean is the content

3   has changed or the resource that, you know -- like, take for example, PC

4   World Online has maybe been a deleted Web page. So that's what they

5   mean by updated. And I think that it's -- I think also in this reference they

6   talk about the system checking for whether or not those resources have been

7   updated. So, say, you know, the system is going out to look at whether PC

8   World Online, its content has changed as its Web page. So it's not clear

9   whether or not that was -- that Web page was accessed with a single

10   navigation interface. Rather, it's the system going out to see whether or not

11   that resource has been -- its content has changed, or perhaps its even been

12   deleted.

13   JUDGE MacDONALD: Any further questions?

14   JUDGE SIU: No.

15   JUDGE MacDONALD: Any further questions?

16   JUDGE COURTENAY: No further questions.

17   MS. McGOVERN: Okay.

18   JUDGE MacDONALD: There are no further questions.

19   MS. McGOVERN: Okay. Thank you very much. In conclusion, we

20   believe that the Bodner reference doesn't anticipate the claim. And I thank

21   you very much for your time, Your Honors.

22   (Whereupon, the hearing concluded on February 12, 2009.)